

AMENDED IN SENATE APRIL 29, 2003

SENATE BILL

No. 635

Introduced by Senator Dunn
(Coauthor: Senator Romero)

February 21, 2003

An act to amend Sections 1797.98c, ~~1797.98e~~, and ~~1799.55~~ and 1797.98e of the Health and Safety Code, relating to emergency *medical* services.

LEGISLATIVE COUNSEL'S DIGEST

SB 635, as amended, Dunn. Emergency *medical* services.

(1) Existing law authorizes each county to establish an emergency medical services fund, and makes money in the fund available for the reimbursement of physicians and surgeons and hospitals for losses incurred in the provision of emergency medical services when payment is not otherwise made for those services.

Existing law authorizes physicians and surgeons to be reimbursed for losses incurred as a result of patients who do not make any payment for services and for whom no responsible 3rd party makes any payment, and limits reimbursement to services provided to a patient who cannot afford to pay for those services and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government, where specific conditions have been met.

This bill would revise that limitation to specify that the payment will not be made through any private health insurance or health plan coverage.

(2) Existing law provides that payments for emergency medical services from the county emergency medical services fund shall be

made only for emergency *medical* services provided on the calendar day on which emergency medical services are first provided and on the immediately following 2 calendar days and specifies that payments may not be made for services provided beyond a 48-hour period of continuous service to the patient.

Existing law also provides that if it is necessary to transfer the patient to a 2nd facility providing a higher level of care for the treatment of the emergency condition, reimbursement shall be available for services provided at the facility to which the patient was transferred on the calendar day of transfer and on the immediately following 2 calendar days, and specifies that payments may not be made for services provided beyond a 48-hour period of continuous service to the patient.

This bill would eliminate the limitation against making those payments for services provided beyond a 48-hour period of continuous services to the patient.

~~(3) Existing law requires the Commission on Emergency Medical Services in the California Health and Human Services Agency, based upon evaluations of the emergency medical systems in the state and their coordination, to make recommendations for further development and future directions of the emergency medical services in the state.~~

~~This bill would require these recommendations to include revenue options for increased funding for emergency medical services.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1797.98c of the Health and Safety Code
2 is amended to read:

3 1797.98c. (a) Physicians and surgeons wishing to be
4 reimbursed shall submit their losses incurred as a result of patients
5 who do not make any payment for services and for whom no
6 responsible third party makes any payment. No physicians and
7 surgeons shall be reimbursed in an amount greater than 50 percent
8 of those losses.

9 (b) If, after receiving payment from the fund, a physician and
10 surgeon is reimbursed by a patient or a responsible third party, the
11 physician and surgeon shall do one of the following:

12 (1) Notify the administering agency, and, after notification, the
13 administering agency shall reduce the physician and surgeon's

1 future payment of claims from the fund. In the event there is not
2 a subsequent submission of a claim for reimbursement within one
3 year, the physician and surgeon shall reimburse the fund in an
4 amount equal to the amount collected from the patient or
5 third-party payer, but not more than the amount of reimbursement
6 received from the fund.

7 (2) Notify the administering agency of the payment and
8 reimburse the fund in an amount equal to the amount collected
9 from the patient or third-party payer, but not more than the amount
10 of the reimbursement received from the fund for that patient's care.

11 (c) Reimbursement for losses incurred by any physician and
12 surgeon shall be limited to services provided to a patient who
13 cannot afford to pay for those services, and for whom payment will
14 not be made through any private health insurance or health plan
15 coverage or by any program funded in whole or in part by the
16 federal government, and where all of the following conditions
17 have been met:

18 (1) The physician and surgeon has inquired if there is a
19 responsible third-party source of payment.

20 (2) The physician and surgeon has billed for payment of
21 services.

22 (3) Either of the following:

23 (A) At least three months have passed from the date the
24 physician and surgeon billed the patient or responsible third party,
25 during which time the physician and surgeon has made two
26 attempts to obtain reimbursement and has not received
27 reimbursement for any portion of the amount billed.

28 (B) The physician and surgeon has received actual notification
29 from the patient or responsible third party that no payment will be
30 made for the services rendered by the physician and surgeon.

31 (4) The physician and surgeon has stopped any current, and
32 waives any future, collection efforts to obtain reimbursement from
33 the patient, upon receipt of funds from the fund.

34 (d) A listing of patient names shall accompany a physician and
35 surgeon's submission, and those names shall be given full
36 confidentiality protections by the administering agency.

37 (e) Notwithstanding any other restriction on reimbursement, a
38 county shall adopt a fee schedule and reimbursement methodology
39 to establish a uniform reasonable level of reimbursement from the

1 county's emergency medical services fund for reimbursable
2 services.

3 (f) For the purposes of submission and reimbursement of
4 physician and surgeon claims, the administering agency shall
5 adopt and use the current version of the Physicians' Current
6 Procedural Terminology, published by the American Medical
7 Association, or a similar procedural terminology reference.

8 (g) Each administering agency of a fund under this chapter
9 shall make all reasonable efforts to notify physicians and surgeons
10 who provide, or are likely to provide, emergency *medical* services
11 in the county as to the availability of the fund and the process by
12 which to submit a claim against the fund. The administering
13 agency may satisfy this requirement by sending materials that
14 provide information about the fund and the process to submit a
15 claim against the fund to local medical societies, hospitals,
16 emergency rooms, or other organizations, including materials that
17 are prepared to be posted in visible locations.

18 SEC. 2. Section 1797.98e of the Health and Safety Code is
19 amended to read:

20 1797.98e. (a) It is the intent of the Legislature that a
21 simplified, cost-efficient system of administration of this chapter
22 be developed so that the maximum amount of funds may be
23 utilized to reimburse physicians and surgeons and for other
24 emergency medical services purposes. The administering agency
25 shall select an administering officer and shall establish procedures
26 and time schedules for the submission and processing of proposed
27 reimbursement requests submitted by physicians and surgeons.
28 The schedule shall provide for disbursements of moneys in the
29 Emergency Medical Services Fund on at least a quarterly basis to
30 applicants who have submitted accurate and complete data for
31 payment. When the administering agency determines that claims
32 for payment for physician and surgeon services are of sufficient
33 numbers and amounts that, if paid, the claims would exceed the
34 total amount of funds available for payment, the administering
35 agency shall fairly prorate, without preference, payments to each
36 claimant at a level less than the maximum payment level. Each
37 administering agency may encumber sufficient funds during one
38 fiscal year to reimburse claimants for losses incurred during that
39 fiscal year for which claims will not be received until after the
40 fiscal year. The administering agency may, as necessary, request



1 records and documentation to support the amounts of
2 reimbursement requested by physicians and surgeons and the
3 administering agency may review and audit the records for
4 accuracy. Reimbursements requested and reimbursements made
5 that are not supported by records may be denied to, and recouped
6 from, physicians and surgeons. Physicians and surgeons found to
7 submit requests for reimbursement that are inaccurate or
8 unsupported by records may be excluded from submitting future
9 requests for reimbursement. The administering officer shall not
10 give preferential treatment to any facility, physician and surgeon,
11 or category of physician and surgeon and shall not engage in
12 practices that constitute a conflict of interest by favoring a facility
13 or physician and surgeon with which the administering officer has
14 an operational or financial relationship. A hospital administrator
15 of a hospital owned or operated by a county of a population of
16 250,000 or more as of January 1, 1991, or a person under the direct
17 supervision of that person, shall not be the administering officer.
18 The board of supervisors of a county or any other county agency
19 may serve as the administering officer.

20 (b) Each provider of health services that receives payment
21 under this chapter shall keep and maintain records of the services
22 rendered, the person to whom rendered, the date, and any
23 additional information the administering agency may, by
24 regulation, require, for a period of three years from the date the
25 service was provided. The administering agency shall not require
26 any additional information from a physician and surgeon
27 providing emergency medical services that is not available in the
28 patient record maintained by the entity listed in subdivision (f)
29 where the *emergency* medical services are provided, nor shall the
30 administering agency require a physician and surgeon to make
31 eligibility determinations.

32 (c) During normal working hours, the administering agency
33 may make any inspection and examination of a hospital's or
34 physician and surgeon's books and records needed to carry out the
35 provisions of this chapter. A provider who has knowingly
36 submitted a false request for reimbursement shall be guilty of civil
37 fraud.

38 (d) Nothing in this chapter shall prevent a physician and
39 surgeon from utilizing an agent who furnishes billing and



1 collection services to the physician and surgeon to submit claims
2 or receive payment for claims.

3 (e) All payments from the fund pursuant to Section 1797.98c
4 to physicians and surgeons shall be limited to physicians and
5 surgeons who, in person, provide onsite services in a clinical
6 setting, including, but not limited to, radiology and pathology
7 settings.

8 (f) All payments from the fund shall be limited to claims for
9 care rendered by physicians and surgeons to patients who are
10 initially medically screened, evaluated, treated, or stabilized in
11 any of the following:

12 (1) A basic or comprehensive emergency department of a
13 licensed general acute care hospital.

14 (2) A site that was approved by a county prior to January 1,
15 1990, as a paramedic receiving station for the treatment of
16 emergency patients.

17 (3) A standby emergency department that was in existence on
18 January 1, 1989, in a hospital specified in Section 124840.

19 (4) For the 1991–92 fiscal year and each fiscal year thereafter,
20 a facility which contracted prior to January 1, 1990, with the
21 National Park Service to provide emergency medical services.

22 (g) Payments shall be made only for emergency *medical*
23 services provided on the calendar day on which emergency
24 medical services are first provided and on the immediately
25 following two calendar days.

26 (h) Notwithstanding subdivision (g), if it is necessary to
27 transfer the patient to a second facility providing a higher level of
28 care for the treatment of the emergency condition, reimbursement
29 shall be available for services provided at the facility to which the
30 patient was transferred on the calendar day of transfer and on the
31 immediately following two calendar days.

32 (i) Payment shall be made for medical screening examinations
33 required by law to determine whether an emergency condition
34 exists, notwithstanding the determination after the examination
35 that a medical emergency does not exist. Payment shall not be
36 denied solely because a patient was not admitted to an acute care
37 facility. Payment shall be made for services to an inpatient only
38 when the inpatient has been admitted to a hospital from an entity
39 specified in subdivision (f).

(j) The administering agency shall compile a quarterly and yearend summary of reimbursements paid to facilities and physicians and surgeons. The summary shall include, but shall not be limited to, the total number of claims submitted by physicians and surgeons in aggregate from each facility and the amount paid to each physician and surgeon. The administering agency shall provide copies of the summary and forms and instructions relating to making claims for reimbursement to the public, and may charge a fee not to exceed the reasonable costs of duplication.

(k) Each county shall establish an equitable and efficient mechanism for resolving disputes relating to claims for reimbursements from the fund. The mechanism shall include a requirement that disputes be submitted either to binding arbitration conducted pursuant to arbitration procedures set forth in Chapter 3 (commencing with Section 1282) and Chapter 4 (commencing with Section 1285) of Part 3 of Title 9 of the Code of Civil Procedure, or to a local medical society for resolution by neutral parties.

~~SEC. 3.—Section 1799.55 of the Health and Safety Code is amended to read:~~

~~1799.55.—Based upon evaluations of the EMS systems in the state and their coordination, the commission shall make recommendations for further development and future directions of the emergency medical services in the state, including revenue options for increased funding for emergency medical services.~~